

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

**Criminal Case No.:
95CR341**

UNITED STATES OF AMERICA

Filed: [9/25/95]

v.

Judge Borchers

FULTON-DENVER COMPANY,

Defendant.

INFORMATION

The United States of America, acting through its attorneys,
charges:

I

DEFENDANT AND CO-CONSPIRATORS

1. FULTON-DENVER COMPANY is a corporation organized and existing under the laws of the State of Colorado, with its principal place of business in Denver, Colorado. During the time period covered by this information, FULTON-DENVER COMPANY was engaged in the business of manufacturing and distributing packaging materials for the agricultural industry.

2. Various individuals and corporations, not made defendants herein, participated as co-conspirators in the offense charged and performed acts and made statements in furtherance

thereof.

3. Whenever in this information reference is made to any act, deed or transaction of a corporation, the allegation means that the corporation engaged in the act, deed or transaction by or through its officers, directors, agents, employees or representatives while they were actively engaged in the management, direction, control or transaction of its business or affairs.

II

BACKGROUND

4. At all times material to this information, the United States Department of Agriculture, through its Commodity Credit Corporation (hereinafter USDA), from time to time purchased polypropylene bags which were used to store grain for shipment overseas. The USDA entered into contracts with various suppliers, including FULTON-DENVER COMPANY, which were awarded on the basis of sealed bids. The USDA also required that polypropylene bags supplied pursuant to such contracts be manufactured in the United States. To that end, the USDA required bidders, including the defendant FULTON-DENVER COMPANY, to certify, through the submission of Certificates of Product Origin, that all bags it supplied would be manufactured in the United States.

III

OFFENSE CHARGED

5. Beginning at least as early as June 1992 and continuing into September 1993, the exact dates being unknown to the United States, defendant:

FULTON-DENVER COMPANY,
and others, both known and unknown to the United States, unlawfully did knowingly and willfully combine, conspire, confederate and agree together and with each other to defraud the United States by submitting bids containing false, fictitious and fraudulent Certificates of Product Origin to the USDA.

IV

DESCRIPTION OF THE CONSPIRACY

6. It was part of this conspiracy that the defendant and co-conspirators would and did receive bid invitations for polypropylene bag contracts from the USDA and that the defendant and co-conspirators would and did submit bid proposals in response thereto.

7. It was further a part of this conspiracy that within the aforesaid bid proposals, the defendant and co-conspirators would and did submit to the USDA false, fictitious and fraudulent Certificates of Product Origin, that falsely certified that the polypropylene bags to be supplied pursuant to a particular contract award would be of domestic origin, when, in truth, the aforesaid polypropylene bags were to be of foreign origin.

8. It was further a part of this conspiracy that the defendant and co-conspirators would and did receive contract awards from the USDA for polypropylene bag contracts and that the defendant and co-conspirators would and did fraudulently supply polypropylene bags of foreign origin to the USDA pursuant to such contracts which required polypropylene bags of domestic origin.

9. It was an object and purpose of this conspiracy that the defendant and co-conspirators would and did submit the false, fictitious and fraudulent Certificates of Product Origin in order to receive and continue to receive payments from the United States pursuant to such contracts.

V

OVERT ACTS

10. As a part of the above-described conspiracy and in furtherance of said conspiracy and to accomplish and effectuate the objects and purposes thereof, the defendant:

FULTON-DENVER COMPANY,
did perform and cause to be performed the following overt acts, amongst others, during the period of the conspiracy and within the District of Colorado and elsewhere, when it submitted and caused to be submitted to the USDA on or about the following dates, the following bids containing Certificates of Product Origin falsely certifying that the polypropylene bags to be produced on the following contracts would be of domestic origin,

when, in fact, the aforesaid polypropylene bags were of foreign origin:

<u>BID DATE</u>	<u>FOREIGN BAGS</u>	<u>CONTRACT NUMBER</u>
6/04/92	40,000	KCBP 13273
8/05/92	180,000	KCBP 13291
9/24/92	300,000	KCBP 13304
3/25/93	50,000	KCBP 13342
9/15/93	225,000	KCBP 13358

ALL IN VIOLATION OF TITLE 18, UNITED STATES CODE,
SECTION 371.

DATED:

"/s/"
JOEL I. KLEIN
Acting Assistant Attorney General

"/s/"
BRADFORD L. GEYER

"/s/"
GARY R. SPRATLING

"/s/"
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